IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10490 of 1999
With
SPECIAL CIVIL APPLICATION No 10492 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASIAM STUDIO PVT LTD

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners

MR AKSHAY H MEHTA for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE D.H.WAGHELA

Date of decision: 28/01/2000

COMMON ORAL JUDGEMENT

Per: B.C. Patel, J :-

Rule. Ld. counsel Mr. Akshay Mehta waives service of rule on behalf of the respondents in both the petitions.

2. On behalf of the petitioners grievance is made before this Court that the Commissioner of Appeals, Central Excise & Customs, Ahmedabad, passed an order on 30-11-1999 in both the matters (By common order), without hearing the petitioners and thus there is gross violation of principles of natural justice. When there is an application for condonation of delay and if the authorities are not inclined to condone the delay, the authorities should hear the parties. Ld. counsel for the petitioners submitted that the Special Civil Application No. 5921 of 1998, preferred against the order passed by the said Commissioner, as delay of 35 days was not condoned, this Court had allowed the petition and the delay was condoned. He submitted that the order was passed by the Division Bench on 18-8-1998. It is required to be noted that the person who causes the delay is likely to suffer. But when the delay is explained by him, same is required to be taken into consideration unless the explanation is appearing palpably false. But that can be said only after hearing the party.

3. Our attention has been drawn to the decision of this Court in Special Civil Application No. 5921 of 1998, wherein the delay of 35 days has been condoned. It is required to be noted that, when sufficient cause is shown the delay should be condoned. From the order it appears that the application has been considered not in the proper spirit and therefore we quash and set aside the impugned order dated 30-11-1999, with a direction to decide the applications on merits afresh after giving opportunity of hearing to the petitioners. With these observations we allow both the petitions. Rule made absolute in each of the petitions. No costs.

/vgn.